

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

PLUS EV HOLDINGS, INC.
a Missouri Corporation,

Plaintiff,

vs.

THRAS.IO, INC.
a Delaware Corporation,

and

15 THRASIO FIFTEEN, INC.
a Delaware Corporation,

Defendants.

Case No. 4:20-cv-00197-BP

Jury Trial Demanded

**SECOND AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT,
VIOLATION OF 17 U.S.C. § 512(f), TORTIOUS INTERFERENCE WITH CONTRACT
OR BUSINESS EXPECTANCY, and UNFAIR COMPETITION**

INTRODUCTION

1. Defendants Thras.io, Inc. and 15 Thrasio Fifteen, Inc. (“Defendants” or “Thras.io”) sought to harass Plaintiff Plus EV Holdings, Inc. (“Plus EV”) and interfere with its profitable business by filing bogus allegations of copyright infringement with Amazon. Incredibly, Thras.io took these actions based on copyrighted works previously misappropriated from Plus EV.

2. Whether through willfulness, carelessness, or negligence, Thras.io used the misappropriated copyrighted material—*authored by Plus EV*—to shut down Plus EV’s product listings through a DMCA Complaint filed with Amazon, in violation of 17 U.S.C. § 512(f).

3. The bogus DMCA Complaint and resulting shutdown caused significant damage to Plus EV’s business. And, although Thras.io later withdrew its copyright infringement allegations,

it continues to use the stolen copyrighted text! Plus EV's business continues to suffer as a result.

This lawsuit seeks to hold Thras.io accountable for its misconduct, and for the substantial financial damage caused to Plus EV's business by Thras.io's wrongful acts.

THE PARTIES

4. Plaintiff Plus EV Holdings, Inc. is a Missouri corporation with a principal place of business at 1700 Iron Street, North Kansas City, MO 64116.

5. Defendant Thras.io, Inc. is a Delaware corporation with a principal place of business at 266 Main Street, Suite 20-117, Medfield, MA 02052.

6. Defendant 15 Thrasio Fifteen, Inc. is a Delaware corporation and subsidiary of Thras.io, Inc., with a principal place of business at 266 Main Street, Suite 20-117, Medfield, MA 02052.

JURISDICTION AND VENUE

7. This Court has original and exclusive jurisdiction for this matter under 28 U.S.C. § 1338 as this is a civil action arising under an Act of Congress governing copyrights, Title 17 U.S.C., and under 28 U.S.C. § 1367, supplemental jurisdiction, Plaintiff brings its complaint under federal diversity jurisdiction, 28 U.S.C. § 1332, as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

8. This Court has personal jurisdiction over Defendants because Defendants have targeted Plaintiff's business in this judicial district for the commission of acts in violation of 17 U.S.C. § 512(f), and caused harm to Plaintiff's business in this district, and have taken other actions targeted at Plaintiff, whose principal place of business is located in this district.

9. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to this claim took place in this district or were targeted at the business of the Plaintiff whose principal place of business is located in this district.

BACKGROUND

10. This lawsuit relates to the best-selling Intimate Rose (“IR”) bladder-control and pelvic care products. The mission of IR began in 2008, when Dr. Amanda Olson, DPT, PRPC, began a career as a pediatric neurology specialist. In a tragic and scary turn of events, Dr. Olson suffered painful and debilitating injuries to her pelvic floor after jumping into the water from a height of over forty feet. Dr. Olson’s injuries and recovery became her inspiration. She shifted her focus from pediatrics to pelvic physical therapy, and spent years studying to become a physical therapist and obtaining her CAPP-PF (“Certification of Advanced Practitioner Practice in Pelvic Floor”) certification from the American Physical Therapy Association.

11. Dr. Olson’s expertise later combined with the innovation of Aaron Wilt, the CEO of Plus EV. Since 2016, Dr. Olson and Mr. Wilt have worked together to develop and curate IR’s popular and innovative products, building an extraordinary business of best-selling bladder-control and pelvic care products sold throughout the United States, including through IR’s own website and through Amazon at URL <https://www.amazon.com/Intimate-Rose-Kegel-Exercise-Weights/dp/B014GMBDQ2> (ASIN B014GMBDQ2), as depicted below (“Plaintiff’s Amazon Listing”).

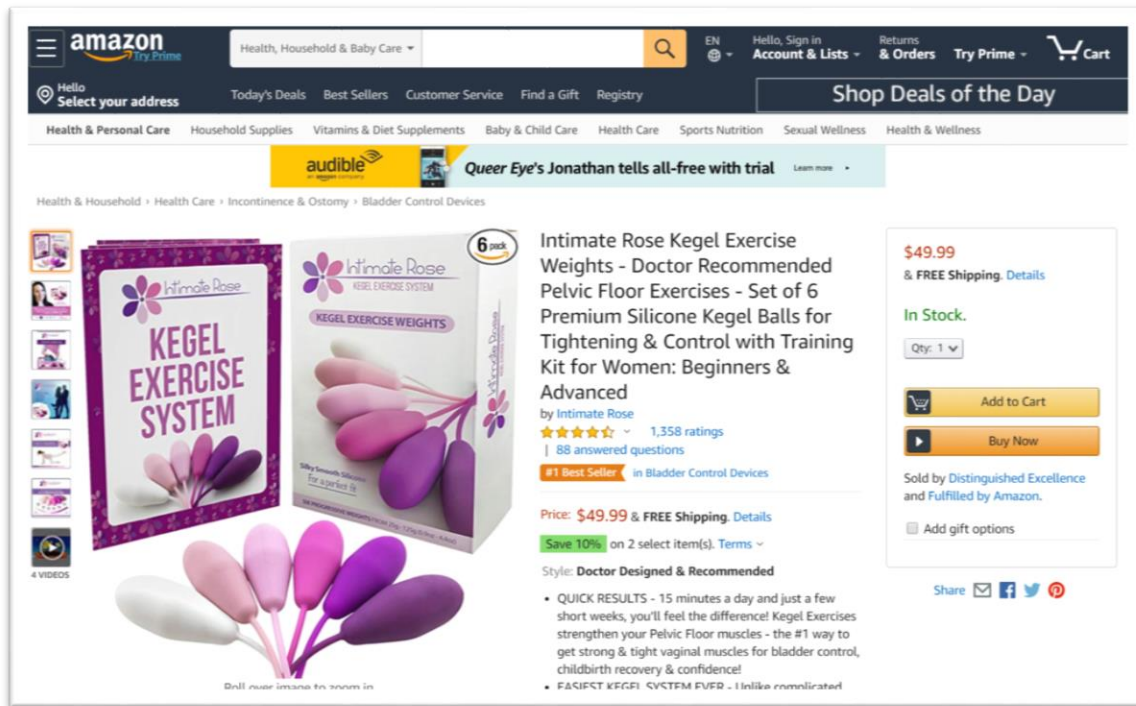



Figure 1. Plaintiff's Amazon Listing

12. Plus EV owns the copyright in and to the images and text associated with Plus EV's Amazon Listing. As a matter of law, Plus EV's copyright ownership vested when the "original work of authorship" was first "fixed in any tangible medium of expression." Thus, Plus EV has owned the copyright in its Amazon Listing for many years as the work was created in 2016.

13. Plus EV obtained United States Copyright Registration Number TX-8-856-919 (the "'919 Copyright" or the "Plus EV Text Copyright") on March 25, 2020 for text associated with its Intimate Rose Kegel Exercise Weights listing.

14. A portion of the text of Plus EV's copyrighted product listing protected by the '919 Copyright is reproduced below:

Intimate Rose Kegel Exercise Weights - Doctor Recommended
for Bladder Control & Pelvic Floor Exercises - Set of 6 Premium
Silicone Vaginal Cones with Training Kit for Women: Beginners &
Advanced  from Intimate Rose

- QUICK RESULTS - 15 minutes a day and just a few short weeks, you'll feel the difference! After 1-2 months, you'll have stronger & tighter pelvic muscles for improved bladder control, labor, recovery, & confidence!
- PERFECT FIT FOR ALL WOMEN - Whether you're a new mother or enjoying your golden years, we have the perfect fit and training system tailored to you & your goals. Our 6 progressive kegel exercise weights ensures you always have a comfortable challenge.
- DOCTOR RECOMMENDED & DESIGNED - Industry leading doctors helped Intimate Rose design & develop the safest, most comfortable & effective vaginal weights and pelvic floor exercise program available. We have Physical Therapists on staff ready to answer your questions related to kegel exercise equipment, urinary incontinence, fecal incontinence, vaginal prolapse, & other forms of pelvic dysfunction.
- PREMIUM BODY-SAFE SILICONE for smooth & comfortable kegels to keep your pelvic floor motivated. BPA-Free, Hypoallergenic, & Medical Grade for your safety. Non-Porous for easy cleaning. No openings or plastic ridges to trap dirt & bacteria. Safely get tighter, toned, and elastic vagina muscles to feel better than ever!
- WHY SIX WEIGHTS? - Because when it comes to kegel exercises, one size does NOT fit all. Intimate Rose understands that 1 or 2 weights don't allow for lasting progress. Our kegel system ensures that beginners and yoga masters have just the right vaginal cone to help now and in the future. Choose Your Perfect vagina weight from the widest distribution (0.0oz up to 4.4oz) including the heaviest kegel weight on the market for pelvic wall strength that lasts.

Figure 2. Plus EV's Amazon Listing - '919 Copyright

15. An example of Defendants' copying is shown below.

**Joy ON Kegel Weights - Doctor Recommended
Pelvic Floor Strengthening Device for Women &
Kegel Balls for Tightening - The Most Effective
Kegel Exercise Product for Beginners &
Advanced**

by Joy ON

- EASY TO USE & COMFORTABLE - Simply place inside while getting ready in the morning, taking shower or doing household chores. We include a COMPLETE PRINTED GUIDE with Tips, FAQs & Exercises for Beginners & Advanced users (English & Spanish)
- QUICK RESULTS - 15 minutes a day and a few short weeks is all you need to feel a difference! STRENGTHEN YOUR PELVIC MUSCLES to feel more confident with your partner, improve Bladder Control and Incontinence, speed up Labor Recovery & fix your Prolapse
- CALENDAR APP & HEAVIEST WEIGHT ON THE MARKET - We are the only kegel exerciser with a Calendar APP where you can record your trainings and STAY MOTIVATED. Our set of 7 ben wa balls for women is the ONLY kit that includes a 150g - 5.3oz kegel ball for those users that need an extra challenge!
- DOCTOR DESIGNED & RECOMMENDED - Our Discretely Packaged Pelvic Floor Weights are made with body-safe Silicone which is BPA and Phthalate free. The ONLY kegal weights for women in Hospitals and Clinics across the world & prescribed to patients by members of the American Physical Therapy Association & Therapeutic Associates
- OUR COMMITMENT - Our Customer Service, On-Staff Doctors & Physical Therapists go above and beyond to make sure you ACHIEVE YOUR GOALS. We reply to EVERY message in less than 24 hours, 7 days a week!

Figure 3. Defendants' Amazon Listing (ASIN B07L5MWBXD)

16. In addition to Defendants' copying of Plaintiff's copyrighted text, Defendants copied other copyrighted elements of Plaintiff's Amazon Listing, including certain graphic images.

17. Plus EV obtained United States Copyright Registration Number TX-8-871-437 (the “’437 Copyright” or the “Plus EV Image Copyright”) on May 25, 2020 for an image associated with its Intimate Rose Kegel Exercise Weights listing.

18. The image protected by the ’437 Copyright is reproduced below:



19. Defendants’ copying of the image protected by the ’437 Copyright is shown below:



THE DIGITAL MILLENIUM COPYRIGHT ACT

20. Congress enacted the Digital Millennium Copyright Act, 17 U.S.C. § 512 (the “DMCA”) in 1998 to provide a framework for addressing claims of online copyright infringement. The DMCA immunizes online service providers from claims of copyright infringement based on materials uploaded by users, if the services promptly remove allegedly infringing materials upon receipt of a DMCA notice from a copyright holder. Through these DMCA notices, the content of which is statutorily prescribed, copyright holders are able to secure the expeditious removal of allegedly infringing materials from online services without the need to prove a claim of infringement in court. Users that receive infringement notices may file a counter notification by providing their name, address, and telephone number, and consent to service of process by the complaining party.

21. Consistent with the DMCA, Amazon’s published policies require the following information in a notice of alleged infringement:

- a. A physical or electronic signature of a person authorized to act on behalf of the owner of the exclusive rights that are allegedly infringed;
- b. Identification of the copyrighted work claimed to have been infringed;
- c. Identification of the material that is claimed to be infringing and information sufficient to permit Amazon to locate the material;
- d. Information sufficient to permit Amazon to contact the complaining party, such as an address, telephone number, or email address where the complaining party may be contacted;

22. Amazon's policies also require certification that the material is unauthorized and that the statements are made under penalty of perjury, requiring the complaining party to provide:

a. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

b. A statement that the information in the notification is accurate and under penalty of perjury that the complaining party is the owner or agent of the exclusive right that is allegedly infringed.

23. Congress recognized that DMCA "takedown notices" could be used maliciously to secure the removal of content that was *not* legitimately claimed to be infringing for the purpose of gaining an unfair business or competitive advantage. Accordingly, Congress included a provision in the DMCA authorizing those aggrieved by fraudulent notices to bring an action against the complaining party for damages, including costs and attorneys' fees, in addition to other remedies the aggrieved might have for unfair competition or intentional interference with contract or business expectancy.

24. Unscrupulous individuals may seek to exploit the DMCA takedown process for illicit purposes; such persons can also seek to exploit Amazon's process for removing infringing content to gain an unfair business advantage. These individuals know that Amazon quickly removes allegedly infringing content in response to DMCA takedown notices, and that it may terminate the accounts of users who accumulate multiple infringement complaints, often with severe consequences to the account holders. With that knowledge, unscrupulous individuals can use bogus notices of infringement as weapons against competitors.

DEFENDANT'S COPYRIGHT INFRINGEMENT AND FALSE DMCA COMPLAINT

25. In February or March 2020, Thras.io targeted Plus EV's Amazon Listing in a scheme to boost its competing product sales and to disable Plus EV's Amazon Listing.

26. Thras.io materially and knowingly misrepresented its ownership of copyrighted text in Plus EV's Amazon Listing in order to have Plus EV's Amazon Listing taken offline and disabled. Thras.io made these representations knowingly, and had it acted with reasonable care or diligence, would not have made such misrepresentations regarding Plus EV's Amazon Listing.

27. Thras.io sent Amazon false notices of copyright infringement (the "Complaint"), falsely and fraudulently claiming copyright in the text of Plus EV's Amazon Listing, located at URL <https://www.amazon.com/Intimate-Rose-Kegel-Exercise-Weights/dp/B014GMBDQ2>.

28. Amazon removed and disabled Plaintiff's Amazon Listing.

29. Amazon assigned Case ID No. 6852384611 to the Defendants' Complaint.

30. Defendants are competitors of Plaintiff and sell competing products on Amazon at <https://www.amazon.com/Joy-ON-Kegel-Weights/dp/B07L5MWBXD> and also located at <https://www.amazon.com/Kegel-Exerciser-APP-Vibration-Recommended/dp/B074S53CM1>.

31. As a result of Thras.io's wrongful and materially false representations to Amazon, Plus EV's Amazon Listing was removed and disabled costing Plus EV thousands of dollars per day in lost sales and damages and untold thousands of dollars in additional damage to its business.

32. Thras.io's notices of alleged infringement were false. Without limitation, they misrepresented that Thras.io was the owner of the copyrighted content in Plus EV's Amazon Listing.

33. Upon information and belief, Thras.io knew its representations in the Complaint were false at the time it submitted the Complaint to Amazon.

34. Moreover, historic images of the URL disabled by Thras.io are easily accessible through the Internet's most popular archival service, "The Wayback Machine," available at www.archive.org. Thras.io could have discovered that the allegedly infringing text existed on Plus EV's Amazon listing years before Defendants even started selling their product. *See, e.g.*, June 8, 2016 archive of ASIN B014GMBDQ2, at <https://web.archive.org/web/20160608052941/https://www.amazon.com/Intimate-Rose-Kegel-Exercise-Weights/dp/B014GMBDQ2>.

35. Plus EV never received notice from Amazon that the Complaint was filed by Thras.io. Indeed, Plus EV had no idea why its listing was disabled by Amazon.

36. Plus EV sought to maintain its Amazon product listing by submitting a DMCA counter-notification to Amazon pursuant to 17 U.S.C. § 512(g)(3). However, Plus EV's counter-notification was not accepted and its listing remained disabled. In one message from Amazon, however, it copied a gmail address associated with Thras.io (joyon2019@gmail.com). Thras.io subsequently admitted that it was responsible for the DMCA notices submitted to Amazon.

37. Plus EV surmised it had been taken down by a competitor. A review of the listings showed that Thras.io's listing included Plus EV's copyrighted text, which had been misappropriated from Plus EV's own listings. It also determined that this email address was associated with various Thras.io government filings and other Joy On product management.

38. On March 9, 2020, Plus EV's counsel wrote to Thras.io's management, advising of the stolen copyrighted material and the improper takedown. On March 10, 2020, Plaintiff's counsel received a telephone call from Thras.io's counsel advising of an investigation.

39. Thras.io withdrew its complaint and Plaintiff's listing was restored, but not before Plus EV lost thousands of dollars in revenue and suffered substantial damage to its business.

40. Because of Defendant's materially false DMCA notices, Plaintiff suffered and continues to suffer thousands of dollars in lost sales and damages, including the loss of its "Best Seller" badge on Amazon which—during Plus EV's absence from the platform—was transferred to Thras.io's listing for Joy On products.

41. Plaintiff provided Thras.io with proof of its ownership of the copyrighted material through its counsel on March 10, 2020.

42. Thras.io still has not removed the infringing copyrighted material taken from Plus EV's Amazon listings, and as of this first amended filing such copyrighted material remains part of Thras.io's listings.

43. Thras.io continues to use the image copied from the Plus EV's copyrighted image.

44. Thras.io's continued use of the infringing copyrighted material taken from Plus EV is evidence of willful copyright infringement.

45. On information and belief, Thras.io and parties acting on its behalf have taken and continue to take actions that interfere with and harm Plaintiff's business, including the filing of false and frivolous complaints and other actions directed at Plaintiff's Amazon listings which result in material financial harm to Plaintiff.

FIRST CAUSE OF ACTION
Violation of 17 U.S.C. § 512(f)

46. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporates them herein by reference.

47. Defendants sent notices of alleged copyright infringement pursuant to the DMCA that contained knowing and materially false misrepresentations regarding copyright ownership in content associated with Plaintiff's Amazon Listing.

48. Upon information and belief, Amazon relied upon Defendants' knowing and materially false misrepresentations to remove and disable access to the Plaintiff's Amazon Listing, which Defendants falsely claimed to be infringing.

49. Defendants' improper and unlawful behavior disrupted Plaintiff's Amazon Listing, caused the loss of seller momentum and the loss of the "Best Seller" badge, which has resulted in substantial monetary damages to Plaintiff and the unjust enrichment of Defendants.

SECOND CAUSE OF ACTION
Tortious Interference with Contract or Business Expectancy

50. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporates them herein by reference.

51. Plaintiff maintained its Amazon Listing with products for sale at Plaintiff's Amazon Listing.

52. Defendants were aware of Plaintiff's Amazon Listing and copied certain copyrighted elements of the listing.

53. Defendants engaged in the filing of false DMCA notices and intellectual property infringement notices against Plaintiff's Amazon Listing. Such notices contained knowing and materially false misrepresentations regarding ownership of Plaintiff's copyrighted works.

54. Defendants intended that such knowing and materially false misrepresentations would disrupt Plaintiff's sales at its Amazon Listing to the benefit of Defendants' listings.

55. On information and belief, Defendants have taken and continue to take actions that interfere with and harm Plaintiff's business, including the filing of false and frivolous complaints and other actions directed at Plaintiff's Amazon listings which result in material financial harm to Plaintiff. On information and belief, such actions continued after the filing of this lawsuit.

56. Plaintiff's sales at Plaintiff's Amazon Listing were disrupted and it lost its "Best Seller" badge.

57. Plaintiff lost thousands of dollars in lost sales and continues to suffer thousands of dollars in lost sales and damage to its relationships as a result.

58. But-for Defendants' interference, Plaintiff had a reasonable expectation of such sales and relationships.

59. Defendants' conduct was the cause of Plaintiff's harm.

THIRD CAUSE OF ACTION
Copyright Infringement – 17 U.S.C. § 106 et seq

60. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporates them herein by reference.

61. On March 25, 2020, the United States Copyright Registration Number TX-8-856-919 ((the '919 Copyright")) was duly and legally issued by the United States Copyright Office, and on May 25, 2020, United States Copyright Registration Number TX-8-871-437 (the '437 Copyright") was duly and legally issued by the United States Copyright Office.

62. Plus EV is the sole owner of the '919 Copyright and the '437 Copyright.

63. Thras.io has produced, reproduced, prepared derivative works based upon, distributed, and publicly displayed Plus EV's protected works or derivatives of Plus EV's protected works without its consent. Thras.io's acts violate Plus EV's exclusive rights under the Copyright Act, 17 U.S.C. §§ 106 *et seq*, including Plus EV's exclusive right to produce, reproduce, and distribute copies of its works, to create derivative works, and to publicly display its work, as shown below in the Thras.io Joy ON Kegel Weight product listing (ASIN B07L5MWBXD):

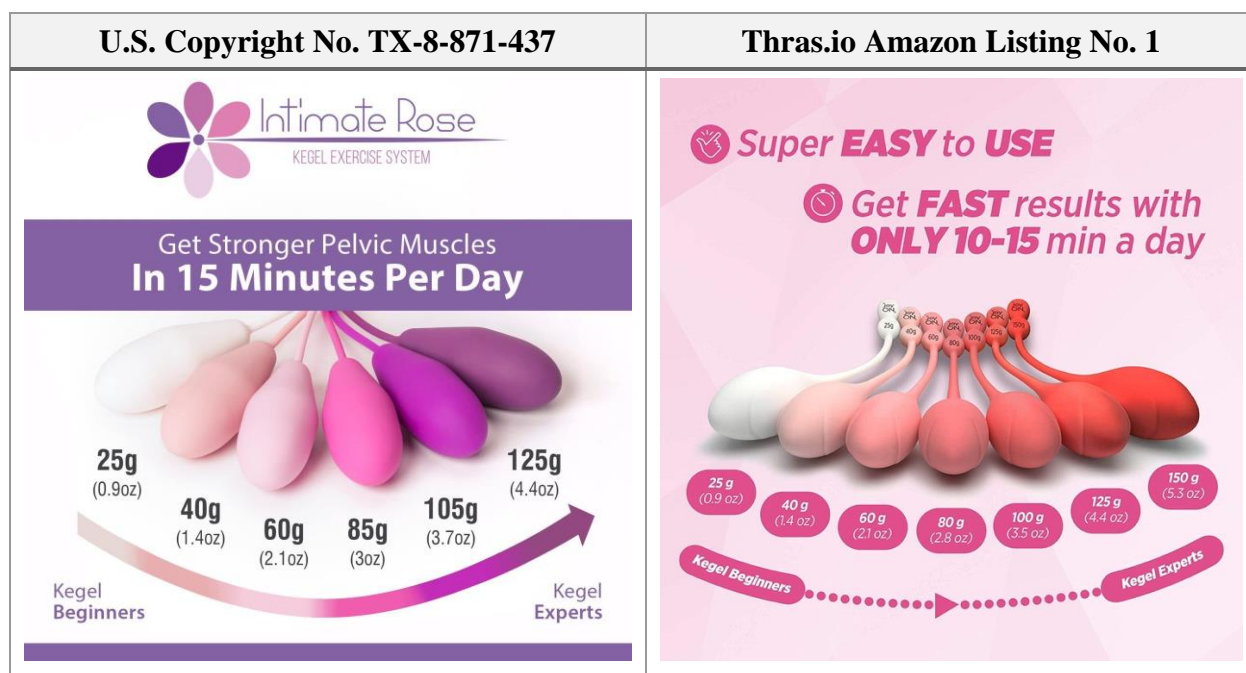
U.S. Copyright No. TX-8-856-919	Thras.io Amazon Listing No. 1
<p>Intimate Rose Kegel Exercise Weights - Doctor Recommended for Bladder Control & Pelvic Floor Exercises - Set of 6 Premium Silicone Vaginal Cones with Training Kit for Women: Beginners & Advanced</p>	<p>Joy ON Kegel Weights - Doctor Recommended Pelvic Floor Strengthening Device for Women & Kegel Balls for Tightening - The Most Effective Kegel Exercise Product for Beginners & Advanced</p>
<ul style="list-style-type: none"> • QUICK RESULTS - 15 minutes a day and just a few short weeks, you'll feel the difference! After 1-2 months, you'll have stronger & tighter pelvic muscles for improved bladder control, labor, recovery, & confidence! • PERFECT FIT FOR ALL WOMEN - Whether you're a new mother or enjoying your golden years, we have the perfect fit and training system tailored to you & your goals. Our 6 progressive kegel exercise weights ensures you always have a comfortable challenge. • DOCTOR RECOMMENDED & DESIGNED - Industry leading doctors helped Intimate Rose design & develop the safest, most comfortable & effective vaginal weights and pelvic floor exercise program available. We have Physical Therapists on staff ready to answer your questions related to kegel exercise equipment, urinary incontinence, fecal incontinence, vaginal prolapse, & other forms of pelvic dysfunction. • PREMIUM BODY-SAFE SILICONE for smooth & comfortable kegels to keep your pelvic floor motivated. BPA-Free, Hypoallergenic, & Medical Grade for your safety. Non-Porous for easy cleaning. No openings or plastic ridges to trap dirt & bacteria. Safely get tighter, toned, and elastic vagina muscles to feel better than ever! • WHY SIX WEIGHTS? - Because when it comes to kegel exercises, one size does NOT fit all. Intimate Rose understands that 1 or 2 weights don't allow for lasting progress. Our kegel system ensures that beginners and yoga masters have just the right vaginal cone to help now and in the future. Choose Your Perfect vagina weight from the widest distribution (0.0oz up to 4.4oz) including the heaviest kegel weight on the market for pelvic wall strength that lasts. 	<ul style="list-style-type: none"> • EASY TO USE & COMFORTABLE - Simply place inside while getting ready in the morning, taking shower or doing household chores. We include a COMPLETE PRINTED GUIDE with Tips, FAQs & Exercises for Beginners & Advanced users (English & Spanish) • QUICK RESULTS - 15 minutes a day and a few short weeks is all you need to feel a difference! STRENGTHEN YOUR PELVIC MUSCLES to feel more confident (sic) with your partner, improve Bladder Control and Incontinence, speed up Labor Recovery & fix your Prolapse • CALENDAR APP & HEAVIEST WEIGHT ON THE MARKET - We are the only kegel exerciser with a Calendar APP where you can record your trainings and STAY MOTIVATED. Our set of 7 ben wa balls for women is the ONLY kit that includes a 150g - 5.3oz kegel ball for those users that need an extra challenge! • DOCTOR DESIGNED & RECOMMENDED - Our Discretely Packaged Pelvic Floor Weights are made with body-safe Silicone which is BPA and Phthalate free. The ONLY kegal weights for women in Hospitals and Clinics across the world & prescribed to patients by members of the American Physical Therapy Association & Therapeutic Associates • OUR COMMITMENT - Our Customer Service, On-Staff Doctors & Physical Therapists go above and beyond to make sure you ACHIEVE YOUR GOALS. We reply to EVERY message in less than 24 hours, 7 days a week! <p>(https://www.amazon.com/Joy-ON-Kegel-Weights/dp/B07L5MWBXD)</p> <p>Comparison as of March 27, 2020</p>

64. Thras.io has produced, reproduced, prepared derivative works based upon, distributed, and publicly displayed Plus EV's protected works or derivatives of Plus EV's protected works without its consent, as shown below in the Thras.io Joy ON Kegel Exerciser with APP & Vibration product listing (ASIN B074S53CM1):

U.S. Copyright No. TX-8-856-919	Thras.io Amazon Listing No. 2
<p>Intimate Rose Kegel Exercise Weights - Doctor Recommended for Bladder Control & Pelvic Floor Exercises - Set of 6 Premium Silicone Vaginal Cones with Training Kit for Women: Beginners & Advanced</p>	<p>Kegel Exerciser with APP & Vibration: Doctor Recommended Kegel Balls for Tightening & Pelvic Floor Exercises for Beginners & Advanced – Women can Now do Kegels Effectively with Kehel by Joy ON Toys</p>
<ul style="list-style-type: none"> • QUICK RESULTS - 15 minutes a day and just a few short weeks, you'll feel the difference! After 1-2 months, you'll have stronger & tighter pelvic muscles for improved bladder control, labor, recovery, & confidence! • PERFECT FIT FOR ALL WOMEN - Whether you're a new mother or enjoying your golden years, we have the perfect fit and training system tailored to you & your goals. Our 6 progressive kegel exercise weights ensures you always have a comfortable challenge. • DOCTOR RECOMMENDED & DESIGNED - Industry leading doctors helped Intimate Rose design & develop the safest, most comfortable & effective vaginal weights and pelvic floor exercise program available. We have Physical Therapists on staff ready to answer your questions related to kegel exercise equipment, urinary incontinence, fecal incontinence, vaginal prolapse, & other forms of pelvic dysfunction. • PREMIUM BODY-SAFE SILICONE for smooth & comfortable kegels to keep your pelvic floor motivated. BPA-Free, Hypoallergenic, & Medical Grade for your safety. Non-Porous for easy cleaning. No openings or plastic ridges to trap dirt & bacteria. Safely get tighter, toned, and elastic vagina muscles to feel better than ever! • WHY SIX WEIGHTS? - Because when it comes to kegel exercises, one size does NOT fit all. Intimate Rose understands that 1 or 2 weights don't allow for lasting progress. Our kegel system ensures that 	<ul style="list-style-type: none"> • EASY TO USE - Connect to our Free App for FUN & EFFECTIVE Kegel Exercises. Unlike boring Kegel weights & ben wa balls you can track your Kegel training in Real Time and Stay Motivated! • QUICK RESULTS - 15 minutes a day and a few short weeks is all you need to feel a difference! Kegel exercises STRENGTHEN YOUR PELVIC MUSCLES and can help you feel Confident in the Bedroom, improve Bladder Control and Incontinence & speed up Labor Recovery • 4 ADJUSTABLE MASSAGE MODES - Kehel is the ONLY Biofeedback device with Therapeutic Massage Function. Use it to Learn which Muscles to Contract! To REMOTE CONTROL it with the APP, your Smartphone MUST BE WITHIN 16 FEET. IT CANNOT BE CONTROLLED OVER THE INTERNET • DOCTOR RECOMMENDED & DESIGNED – Our Discreetly Packaged Kegel Trainer is made with body-safe Premium Silicone which is BPA and Phthalate free. The ONLY kegel exercise balls in Hospitals and Clinics across the world & recommended by members of the American Physical Therapy Association & Therapeutic Associates • CUSTOMER SATISFACTION - Our Customer Service, On Staff Doctor & Physical Therapists, go above and beyond to make sure you ACHIEVE YOUR GOALS. We reply to EVERY message in less than 24 hours, 7 days a week!

<p>beginners and yoga masters have just the right vaginal cone to help now and in the future. Choose Your Perfect vagina weight from the widest distribution (0.0oz up to 4.4oz) including the heaviest kegel weight on the market for pelvic wall strength that lasts.</p>	<p>(https://www.amazon.com/Kegel-Exerciser-APP-Vibration-Recommended/dp/B074S53CM1)</p> <p>Comparison as of March 27, 2020</p>
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65. Thras.io has produced, reproduced, prepared derivative works based upon, distributed, and publicly displayed Plus EV's protected works or derivatives of Plus EV's protected works without its consent. Thras.io's acts violate Plus EV's exclusive rights under the Copyright Act, 17 U.S.C. §§ 106 et seq, including Plus EV's exclusive right to produce, reproduce, and distribute copies of its works, to create derivative works, and to publicly display its works, as shown below in the Thras.io Joy ON Kegel Weight product listing (ASIN B07L5MWBXD):



66. Defendants have produced, reproduced, and/or prepared reproductions of Plus EV's protected works without Plus EV's consent. Defendants' actions violate Plus EV's exclusive rights under the Copyright Act, 17 U.S.C. §§ 106 and 501, including its exclusive rights to produce,

reproduce, and distribute copies of its works, to create derivative works, and to publicly display its works.

67. Defendants' infringement of Plus EV's copyrighted works has been undertaken willfully with the intent to financially gain from Plus EV's copyrighted works. Defendants' willfulness is evidenced by the fact that Defendants contended to Amazon that the similarity in content on our site and theirs constituted copyright infringement; and yet, when notified that Plus EV created the copyrighted materials Defendants did not remove the copyrighted (and infringing) material from its listings.

68. Because of Defendants' infringing acts, Plus EV is entitled to its actual damages and Defendants' profits attributable to the infringement in an amount to be proven at trial, together with all other relief allowed under the Copyright Act.

69. Because of Defendants' willful infringement, Plus EV is entitled to increased damages pursuant to 17 U.S.C. § 504(c)(2).

70. Defendants' infringement has caused and continues to cause irreparable harm to Plus EV, for which it has no adequate remedy at law. Unless this Court restrains Defendants from infringing Plus EV's protected work, the harm will continue to occur in the future. Accordingly, Plus EV is entitled to an injunction against continued infringement.

FOURTH CAUSE OF ACTION ***Unfair Competition***

71. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporates them herein by reference.

72. Plaintiff maintained its Amazon Listing with products for sale at Plaintiff's Amazon Listing.

73. Defendants were aware of Plaintiff's Amazon Listing and copied certain copyrighted elements of the listing.

74. Defendants engaged in the filing of false DMCA notices and intellectual property infringement notices against Plaintiff's Amazon Listing. Such notices contained knowing and materially false misrepresentations regarding ownership of Plaintiff's copyrighted works.

75. Defendants intended that such knowing and materially false misrepresentations would disrupt Plaintiff's sales at its Amazon Listing to the benefit of Defendants' listings.

76. On information and belief, Defendants have taken and continue to take actions that interfere with and harm Plaintiff's business, including the filing of false and frivolous complaints and other actions directed at Plaintiff's Amazon listings which result in material financial harm to Plaintiff. On information and belief, such actions continued after the filing of this lawsuit.

77. Plaintiff's sales at Plaintiff's Amazon Listing were disrupted and it lost its "Best Seller" badge.

78. Plaintiff lost thousands of dollars in lost sales and continues to suffer thousands of dollars in lost sales and damage to its relationships as a result.

79. Defendants' conduct and acts of unfair competition were the cause of Plaintiff's harm.

PRAYER FOR RELIEF

Wherefore, Plaintiff Plus EV prays for relief as set forth below.

A. For an award of damages in an amount to be proven at trial arising from Defendants' violation of 17 U.S.C. § 512(f);

B. For an award of its costs and reasonable attorneys' fees as provided for in 17 U.S.C. § 512(f);

C. For an award of actual and punitive damages in an amount to be proven at trial for Defendants' Tortious Interference with Contract or Business Expectancy;

D. For an award of actual and punitive damages in an amount to be proven at trial for Defendants' acts of Unfair Competition;

E. For disgorgement of Defendants' profits as a result of their improper acts;

F. For injunctive relief barring Defendants and all those in active concert with them from submitting any similar notices of alleged infringement to Amazon that misrepresent ownership of the materials associated with Plaintiff's Amazon Listing, and from filing or causing to be filed frivolous complaints against Plaintiff's Amazon Listing(s), and from any further acts of tortious interference or unfair competition;

G. A judgment in favor of Plus EV that Defendants have infringed the registered Plus EV Copyright;

H. A judgment in favor of Plus EV that Defendants infringement of the registered Plus EV Copyright has been willful;

I. A judgment in favor of Plus EV that Plus EV is entitled to its actual and/or statutory damages, and Defendants profits attributable to the infringement of the Plus EV Copyright, in an amount to be proved at trial;

J. A judgment in favor of Plus EV that Plus EV is entitled to increased damages pursuant to 17 U.S.C. § 504(c)(2) due to Defendants willful infringement;

K. An order and judgment enjoining Defendants and their officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants, successors and assigns, and any and all persons acting in privity or in concert with any of them, from infringing the registered Plus EV Copyright;

L. For such other, further, and different relief as the Court deems proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all claims and issues so triable.

Dated this 1st day of June 2020.

Respectfully submitted,

BERKOWITZ OLIVER LLP

By: /s/ Stacey R. Gilman

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CERTIFICATE OF SERVICE

I certify that on June 1, 2020, I electronically filed the foregoing with the Clerk of the Court for the U.S. District Court, Western District of Missouri, using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Stacey R. Gilman
***Attorney for Plaintiff Plus EV Holdings,
Inc.***